

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

KENNETH W. RODGERS,

Plaintiff,

vs.

STATE OF WASHINGTON, COUNTY  
OF SPOKANE,

Defendants.

NO. CV-06-042-CI

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND DISMISSING  
COMPLAINT WITHOUT PREJUDICE

**1915(g)**

Magistrate Judge Imbrogno filed a Report and Recommendation on June 29, 2006, recommending Mr. Rodgers's civil rights complaint be dismissed without prejudice (Ct. Rec. 10). Plaintiff's claims were barred by *Heck v. Humphrey*, 512 U.S. 477, 487 (1994), and he failed to name Defendants who were amenable to suit. A copy of the Report and Recommendation was returned to the court and received on July 13, 2006, with the notation, "Return to Sender, inactive."

Plaintiff has not advised the court of a current address. There being no objections, the court **ADOPTS** the Report and Recommendation. **IT IS ORDERED** the complaint is **DISMISSED WITHOUT PREJUDICE** to seeking relief in state court. Plaintiff's allegations, however, fail to state a claim upon which this court may grant relief.

Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a  
ORDER ADOPTING REPORT AND RECOMMENDATION  
AND DISMISSING COMPLAINT WITHOUT PREJUDICE -- 1

1 prisoner who brings three or more civil actions or appeals which are  
2 dismissed as frivolous or for failure to state a claim will be  
3 precluded from bringing any other civil action or appeal *in forma*  
4 *pauperis* "unless the prisoner is under imminent danger of serious  
5 physical injury." 28 U.S.C. § 1915(g). Plaintiff is advised to read  
6 the new statutory provisions under 28 U.S.C. § 1915. This dismissal  
7 of Plaintiff's complaint may count as one of the three dismissals  
8 allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to  
9 file future claims.

10 IT IS SO ORDERED. The District Court Executive is directed to  
11 enter this Order, forward a copy to Plaintiff at his last known  
12 address, enter judgment, and close the file. The District Court  
13 Executive is further directed to forward a copy of this Order to the  
14 Office of the Attorney General of Washington, Criminal Justice  
15 Division.

16 DATED this 28th day of September, 2006.

17  
18 s/ Fred Van Sickle  
19 FRED VAN SICKLE  
20 UNITED STATES DISTRICT JUDGE  
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